

City of West Branch

~A Heritage for Success~

Office of the City Administrator

July 22, 2014

West Branch, IA 52358

Dear _____,

At the May 19, 2014 City Council Meeting, residents from Pedersen Valley (701-801 W. Orange and 700-706 Sullivan Street) expressed their displeasure with the stormwater problems on their properties. Residents also stated that the City should have protected them from these problems by having stormwater requirements in place to protect homeowners. Residents further called for improvements in the Meadows Subdivision to alleviate these stormwater problems.

The documents from the Pedersen Valley Part IV platting process were reviewed by the city attorney and this review showed that stormwater issues were addressed prior to City Council passage of the final plat for this subdivision. Minimum low openings were assigned to several properties and stormwater easements were established. In the restrictive covenants for each lot (which were recorded on December 21, 2005 and are attached to this letter), the following was stated:

"Drainage easements and natural drainage ways shall not be obstructed or altered. The existing topography of each Lot in the Subdivision shall be disturbed to the least extent possible during construction of any improvements on the property. Excavation and fill is not permitted, except as may be necessary for construction, and any excavation and fill shall be done in a manner to interfere as little as possible with the existing topography."

The restrictive covenants were not followed by residents and as a result, water cannot move through this natural drainage way without causing damage to the backyards of several properties. Homes were constructed in the natural drainage way through the lots and no provisions were made by the property owners, per their own covenants, that would allow for the natural flow of stormwater through these properties. Walkouts were built on lots that were not well suited for that type of construction and yards were graded in a manner so as to interfere with the natural flow of water through this area.

The result is that there is property damage for several home owners in this area. The drainage ways existed before the homes were built and water will continue to flow through this area in the future. (Two aerial photos which show the natural drainage way prior to construction of homes are also attached to this letter.)

Covenants are enforced by the owners in the subdivision if they choose to do so. The City cannot enforce these covenants because they are not an owner of a lot in the subdivision. The City Council has determined that addressing issues caused by modification of natural drainage would not be a responsible use of taxpayer funds.

It is the further determination of the City Council, per the advice of the city engineer, that while runoff may be more intense due to lack of infiltration on the property to the west as the area is being developed, that there is 20% less area contributing to runoff directed towards the back yards than before this development occurred. (The Site Grading and Erosion Control Plan for the Meadows Phase One is also attached to this letter.) Phase One of the Meadows Subdivision was graded so that the front of the lots north of and adjacent to Orange Street drain towards Orange Street. The problems are getting worse in the backyards of the above-mentioned properties, in large part, due to the continued lack of adequate measures for conveying the drainage of stormwater across the back yards of the properties.

During discussions with property owners at the May 19, 2014 City Council Meeting, some property owners questioned whether or not additional water could be diverted to Orange Street. The city engineer confirmed as-built elevations for the intake and grading near the fence. Both elevations were consistent with what was discussed with property owners earlier. That leaves only 0.3 feet of fall between the low point near the fence and the outlet pipe at the intake. There would not be cover over the pipe near the low point and for 20 to 30 feet towards the intake unless a berm were constructed over the pipe. Even then, with the minimal amount of fall, sediment would likely accumulate and could plug or reduce pipe capacity.

At a meeting that was held in August of 2012, residents were told that the City would not fund any improvements in this area. Councilman (at the time) Mark Worrell briefed the Council on this meeting at the September 4, 2012 City Council Meeting. At the end of that meeting, it was resolved that the homeowners would meet to discuss their next steps and report back to the City Council at a later date. Unfortunately, no improvements have been undertaken since that time to allow for the conveyance of stormwater through this area.

Addressing the erosion and runoff concerns will require a cooperative effort among the homeowners. The property owners in this area may have to retain the services of a consulting engineer to design a conveyance that will reduce property damage from stormwater. In order to alleviate erosion and best manage the storm flow, the city engineer recommends exploring one of the following two options with a consulting engineer of your choice:

1) Homeowners could construct an overland drainage swale to carry the water between the houses to the flared end section at the bottom of the hill. Native plantings could be incorporated into the design of the swale to make it more aesthetically pleasing. Please see the Iowa Stormwater Education Program (ISWEP) website for additional information.

2) If the homeowners are not in favor of the swale, homeowners may choose to construct storm sewer down between the houses and discharge near the existing flared end section.

In turn, the City will do its part to ensure that developers adhere to relevant stormwater requirements and when necessary, will report suspected violations to the appropriate enforcement agency. The City is taking seriously the concerns relating to maintenance of erosion control measures in the development to the west. Following inspection, the developer was notified that the measures were inadequate or had failed and were to be repaired and enhanced. The developer has an obligation to monitor and maintain the erosion control measures per requirements of their National Pollution Discharge Elimination System (NPDES) permit issued by Iowa Department of Natural Resources (IDNR). IDNR is the regulatory agency responsible for enforcing the requirements of the NPDES permit.

The City of West Branch has invested a considerable amount of staff time and property tax dollars addressing stormwater management issues over the last several years. The City is committed to continued efforts in this area. Some examples of recent City stormwater efforts include:

- 1) Working in partnership with other groups to achieve construction of a flood retention structure (the Hoover Dam).
- 2) Consideration of potential partnerships for the installation of additional flood retention structures both within and outside the West Branch corporate limits.
- 3) Repair and maintenance of existing stormwater infrastructure. This includes city staff, outside vendor and City Engineer inspections and repair of existing stormwater infrastructure.
- 4) Construction of new stormwater infrastructure.
- 5) Taking voluntary membership in the Iowa Stormwater Education Program (ISWEP).
- 6) Staff training and certification through ISWEP. This includes staff training on stormwater best management practices and staff certification as an Iowa Certified Construction Site Pollution Prevention Inspector (ICCSPPPI).
- 7) Adoption of a stormwater utility. This provides an independent source of funding to address stormwater issues. The City Council also indicated support for matching general funds to be used in these efforts.
- 8) Creek maintenance.
- 9) Consideration of grading plan requirements for individual building lots.
- 10) Consideration of top soil requirements for individual building lots.
- 11) Consideration of stormwater issues when developers approach the City Council with plans for new development.

Sincerely,

Matt Muckler
City Administrator

Cc: KLM Investments, Inc.
PV Properties
Pedersen Valley Part IV (701-801 W. Orange and 700-706 Sullivan Street) Residents



Book 768 Page 20-22

Document 2005 5213 Pages 3
Date 12/21/2005 Time 12:20:40PM
Rec Amt \$17.00 *pd*

CHARLINE L THUMM, RECORDER
CEDAR COUNTY IOWA

Prepared by and return to: ⁽²⁾ Thomas H. Gelman, P.O. Box 2150, Iowa City IA 52244-2150 (319)354-1104

(1) PV Properties LLC, 2253 SRiverside Dr., Iowa City, IA 52246

RESTRICTIVE AND PROTECTIVE COVENANTS FOR
PEDERSEN VALLEY PART FOUR, WEST BRANCH, IOWA

The undersigned, being the owner of all lots in Pedersen Valley Part Four, a subdivision located in West Branch, Cedar County, Iowa, the plat of which is recorded in Book 768, Page s 1-19 of the records in the office of the County Recorder of Cedar County, Iowa, ("Subdivision"), does now, for the mutual benefit of those persons who may purchase any of the lots in the Subdivision, impose the following covenants and restrictions on all numbered lots 53 through 82, inclusive, ("Lots" and individually a "Lot") in the Subdivision, as covenants running with the land, and with such force and effect as if contained in each subsequent conveyance of land, to-wit:

1. Each dwelling built on each Lot in the Subdivision shall have a double garage of at least 22 feet in width attached to the dwelling. All driveways shall be hard surfaced with concrete pavement and shall be at least 12 feet in width.
2. No motor vehicle of a Lot owner or such owner's invitees or guests shall be parked on the street of the Subdivision overnight or at any time in any manner that interferes with the flow of traffic.
3. No house trailer, mobile home, manufactured home, tent, tent trailer, shed, shack, garage or barn may at any time be used as a residence, temporarily or permanently, on any Lot; nor shall the owner(s) of any Lot store or park or permit to be stored or parked any house trailer, mobile home, manufactured home, or tent trailers on any Lot.
4. All buildings erected on any Lot shall be located and designed in harmony with existing structures within the Subdivision and be in compliance with these covenants (in addition to any zoning or building requirements of the City). Prior to commencement of construction, Plans and Specifications for the proposed building and all associated improvements must be approved by PV Properties, L.L.C. or its designee in writing. The term "Plans and Specifications" includes the usual and customary documents incident to construction of a building and related improvements and shall also include plans and diagrams showing the location and type of drives and parking area, plantings, landscaping, stormwater facilities and other improvements, along with a description of proposed materials and proposed color scheme for the building and improvements.

Two copies of the Plans and Specifications shall be submitted to PV Properties, L.L.C. or its designee prior to construction. One shall be returned to the owner and the other retained by PV Properties, L.L.C. PV Properties, L.L.C. or its designee shall approve or disapprove the proposed Plans and Specifications in writing within 10 days after receipt. Any disapproval will specify the reasons. If no response is made within said 10 day period, the Plans and Specifications will be deemed approved. PV Properties, L.L.C.'s

BOOK 768 PAGE 20

or its designee's approval of any Lot owner's Plans and Specifications shall not necessarily indicate that they are in full compliance with applicable zoning and building ordinances. Lot owners are solely responsible for verifying such compliance.

5. No building shall be constructed with exterior walls of a material other than wood, stone, brick or good quality residential siding. All dwellings shall have brick or stone veneer on a minimum of 15% of the first floor street side (front) elevation. Roofs shall have a minimum 6/12 pitch. No "straight" roofs will be permitted – all roofs must be multi-level or have multiple dormers.

6. Any detached storage building must be located no closer to the front of the Lot than the rear line of the dwelling on the Lot and must be sided and shingled to match the dwelling constructed upon the Lot. The maximum size of any detached storage building is 8 feet by 12 feet and there shall be no more than one per Lot.

7. Only one satellite dish per Lot is allowed and that dish may not be located in the front or side yards or attached to the street side(s) of any structure.

8. No dwelling shall be permitted having a ground floor square foot finished living area of less than 1,350 square feet in the case of one-store structures, nor less than 900 square feet on the ground floor in the case of multi-level or two story structures. Multi-level or two story structures shall have a total finished square foot living area of less than 1,500 square feet. Garages, three season porches, and breezeways shall not be considered living area for such purposes.

9. The owner(s) of each Lot, vacant or improved, shall keep the Lot free of weeds and debris and shall mow the gross so as to maintain the Lot in a neat, well-kept condition.

10. Each Lot owner shall, during the first planting season following occupancy, plant at least one tree in the front yard of each Lot, at least 15 feet back from the street. All trees shall have a trunk diameter of at least two inches. The tree must be oak or maple (except for soft maple) or other species designated on owner's plans and specifications as approved by PV Properties, L.L.C. in accordance with Section 4 of these covenants.

11. Vegetable gardens may be maintained only at the rear of a dwelling.

12. The buildings constructed on Lots 53, 54, 55, 70, 71, 72, 73, 74, 80, 81 and 82, inclusive, shall fully comply with the Minimum Low Opening Specifications contained on the Final Plat of the Subdivision.

13. A perpetual easement is reserved for utility installation and maintenance over that portion of each Lot designated on the Final Plat of the Subdivision as subject to "Utility Easements".

14. Drainage easements and natural drainage ways shall not be obstructed or altered. The existing topography of each Lot in the Subdivision shall be disturbed to the least extent possible during construction of any improvements on the property. Excavation and fill is not permitted, except as may be necessary for construction, and any excavation and fill shall be done in a manner to interfere as little as possible with the existing topography.

15. The construction of any dwelling on a Lot in the Subdivision shall be completed within one year after the date construction is begun. Sidewalks and driveways shall be installed, and lawns shall be sodded or seeded prior to occupancy of the dwelling by the owner, unless prohibited by inclement weather, in which case said improvements shall be installed as soon as the weather permits.

16. These covenants and restrictions are to run with the land and shall be binding on the applicable Lots and all parties and all persons claiming under them for twenty-one (21) years from the date of initial recording, at which time these covenants and restrictions shall be extended for a period of ten (10) years or more as may be permitted under the provisions of Section 614.24 or other provision of the Code of Iowa, by filing the necessary claim in the manner set forth in said Section 614.25 or other Code section. These covenants may be further or otherwise extended in accordance with Iowa law.

17. If any owner of a Lot in the Subdivision (or such owner's tenants, invitees or guests) shall at any time violate or attempt to violate any of the covenants or restrictions hereto, it shall be lawful for any other owner of a Lot in the Subdivision to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any covenant or restriction to either prevent them from doing so or to recover damages or other remedies for such violation. The prevailing party in any such proceeding shall be entitled to recover reasonable attorney fees and costs.

18. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

Dated 12 / 14, 2005

PV PROPERTIES, L.L.C.

By Jerry Strawn
Jerry Strawn, Vice President

State of Iowa, County of Johnson, ss:

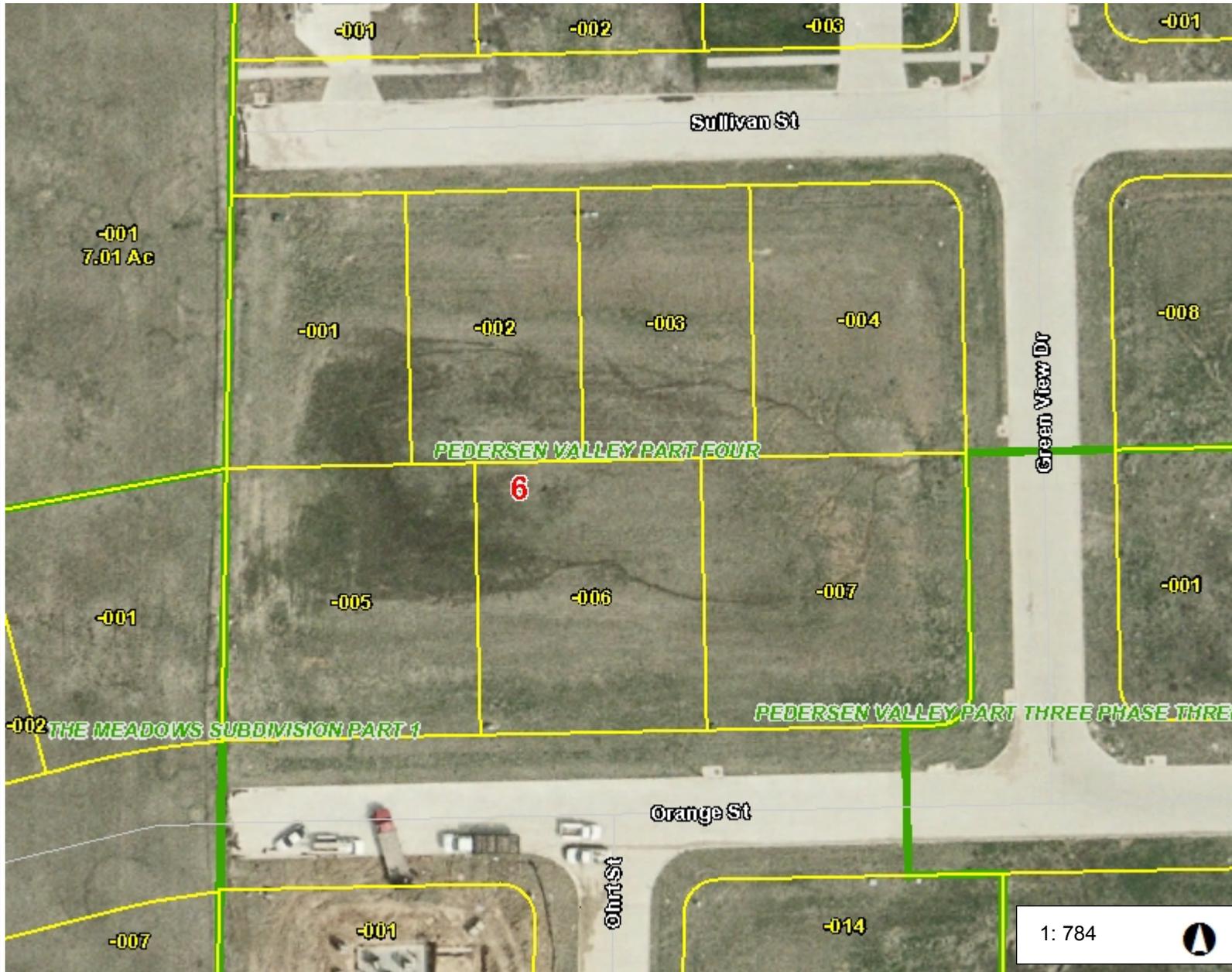
On this 14 day of December, 2005, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Jerry Strawn, to me personally known, who, being by me duly sworn, did say that he is the Vice President of said limited liability company; that no seal has been procured by the said company; and that said instrument was signed on behalf of the company by authority of its managers and the said Jerry Strawn acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company, by it and by him voluntarily executed.

Katherine A. Christensen
Notary Public for the State of Iowa



BOOK 768 PAGE 22

Cedar County, IA



Legend

- Road
 - County Roads / City Streets
 - INTERSTATE
 - STATE HIGHWAY
 - U.S. HIGHWAY
- + Railroad
- Parcel
- Parcel Number/Acres
- Leased Land
- Corporate Limit Line
- Land Hook
- Subdivision
- ▨ Park
- Section
- County Boundary

Notes

0.0 0 0.01 0.0 Miles

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

4/14/1994

Green View Dr



Cedar-Johnson Rd

Sullivan St

Gilbert-Dr

Ohrt St

Hilltop Dr

Pedersen St

F44

W Main St

Image U.S. Geological Survey

Google earth

1994

Imagery Date: 4/14/1994 41°40'26.98" N 91°21'37.87" W elev 768 ft eye alt 3616 ft

